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a waste receptacle located outside the litter chamber;
a comb disposed in the litter chamber;

comb drive means for driving the comb between a storage position and a discharge position, the comb projecting down into the litter chamber to a level below the fill level while the comb moves toward the discharge position so that the comb engages clumps in the litter and moves such clumps toward the discharge position; and

a waste level sensor coupled to the litter chamber; and wherein said cat litter box further includes an alarm coupled to the waste level sensor, the alarm being activated when the waste level sensor determines that waste in the waste receptacle has reached a predetermined level; and

wherein said waste level sensor includes a source of radiation and a radiation detector.

REMARKS

Claims 26, 27 and 33-35 have been amended. Claim 26 has been amended to further recite that the "waste level sensor means" is "arranged to perform a sensing operation internally of said receptacle." Claim 27 has been amended to further recite that the "mode selector means" selects between a manual operation mode "for said comb drive means" and an automatic operation mode "for said comb drive means." Claim 33 has been amended to further recite that the "mode selector switch" is "operatively connected to said comb drive."

Claim 34 has been amended to further recite that the "waste level sensor" is "arranged to perform a sensing operation internally of said receptacle." In claim 35, the word "level" has been changed to --height--. The amended claims are underlined entirely per M.P.E.P. § 1453. Per 37 C.F.R. § 1.121(b)(2)(iii), support for the changes to claims 26, 27 and

33-35 appears in the patent drawings and specification, including Figs. 7 and 9 and column 8, lines 56-62.

Claims 38, 43 and 44 have been rewritten in independent form to include all of the limitations of the base claim and any intervening claims.

The application now contains 14 independent claims in excess of the number of independent claims in the original patent and 26 total claims in excess of the total number of claims in the original patent. Applicant previously paid for the presentation of 11 excess independent claims and 26 excess total claims. Our check in the amount of \$234.00 for the new independent claims is attached. Please charge any deficiency in the fees associated with this paper to our Deposit Account No. 04-1073.

Applicant acknowledges the requirement to surrender the patent or take other action per 37 C.F.R. § 1.178. A Supplemental Declaration (37 C.F.R. § 1.175(6)(1)) will be submitted when the application is otherwise allowable.

The allowance of claims 1-25, 28-32, 36-40 and 43-48 is gratefully acknowledged.

Claims 26, 34 and 35 are rejected under 35 U.S.C. § 103 as being unpatentable over Carlisi in view of Hohenstein. Reconsideration is respectfully requested.

Carlisi discloses a system for removing solid waste 12 from a litter box 10. In the Carlisi system, a rake 44 moves through the litter material 14 to discharge waste 12 into a receptacle 30. As acknowledged in the Office Action, the Carlisi system does not have a waste level sensor.

Hohenstein discloses a litter system with a litter chamber 14 and a waste container 90. The litter chamber 14 is filled with nonabsorbent material (col. 2, line 59). The waste container 90 is filled with baking soda 170 (col. 4, lines 29-31). The waste container 90 is located within a housing 12. Solid waste is moved by a rake 42 through an opening 18, and from there into the container 90. Liquid waste flows through the nonabsorbent material and into the container 90 through a drain 146.

The waste container 90 is rotated to mix the waste into the baking soda 170 (col. 6, lines 24-26). An external weight sensor 124 determines when the container 90 "becomes sufficiently heavy to indicate a full condition" (col. 3, line 63 to col. 4, line 2). "An indicator, such as lamp 123, visible from outside the system, indicates when the container [90] is full." (Col. 4, lines 5-7.)

The prior art references, even when considered in combination, fail to suggest the waste level sensor means of amended claim 26, or the waste level sensor of amended claim 34, both of which are "arranged to perform a sensing operation internally of said receptacle." Consequently, claims 26 and 34, as amended, should be allowable.

Claim 35 depends from claim 34 and should be allowable along with claim 34. In addition, claim 35 has been amended to recite that the sensor determines that waste has reached a predetermined height. The prior art reference fail to suggest this feature in combination with the other features of claim 35. In the Hohenstein system, the rotating container 90 is filled at the outset with baking soda, and the system responds to the weight of accumulated liquid and other waste.

Claims 27 and 33 are rejected under § 103 as being unpatentable over Carlisi in view of Strickland. Reconsideration is respectfully requested.

As acknowledged in the Office Action, the Carlisi system does not have a mode selector switch. Strickland discloses a cat waste disposal system which provides a measured amount of litter on a conveyor belt 14. A hopper 12 actuated by a timer 54 or a pressure sensor 56 dispenses a measured amount of litter onto the belt 14. The hopper 12 has a container 30 for holding a predetermined amount of litter. A motor 76 rotates the belt 14 to cause old litter to drop into a chute 86. A manual actuating means 55 is provided in the timer 54 to open and close the container 30 and move the belt 14 as desired by the operator (col. 3, lines 20-23).

The manual actuating means 55 taught by Strickland is used to supply and remove litter to and from the belt 14. If the actuating means 55 were somehow incorporated into the Carlisi system, it would be to control the supply and removal of litter to and from the Carlisi litter box 10. There is no reason suggested by the prior art to use the Strickland actuating means 55 to control the Carlisi rake 44.

Amended claim 27 recites a "mode selector means for selecting . . . a manual operation mode for said comb drive means and an automatic operation mode for said comb drive means." Amended claim 33 recites a mode selector switch that is "operatively connected to said comb drive." The prior art references fail to suggest these important features of the invention. Consequently, claims 27 and 33, as amended, should be allowable.

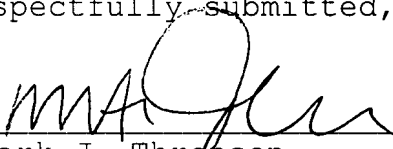
Claims 41 and 42 depend from claim 27 and should be allowable along with claim 27 and for other reasons.

In connection with the foregoing, please note that Applicant reserves his right to pursue the original claims and other claims in this application and in other applications. The canceled and/or amended claims have been canceled and/or amended solely for the purpose of furthering the prosecution of the present reissue application. Applicant reserves the right to claim the subject matter of the canceled claims, the claims pending prior to this Amendment, and/or the subject matter of other claims embodied in this application, or any continuation, division, cpa, subsequent reissue, reexamination or other application. Any amendments made to the application are not made for the purpose of distinguishing the claims over prior art except as specifically discussed in the remarks section of this paper. Applicant may file a continuing application with claims that do not contain the limitations discussed in this paper, and Applicant expressly reserves his right to do so.

Allowance of the application with claims 1-48 is solicited.

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Respectfully submitted,

By 
Mark J. Thronson
Registration No. 33,082
DICKSTEIN SHAPIRO MORIN
& OSHINSKY LLP
2101 L Street, N.W.
Washington, D.C. 20037-1526
202-775-4742

Attorneys for Applicant